

2 **SSB 5377** - H COMM AMD
3 By Committee on Health Care

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 74.09.240 and 1979 ex.s. c 152 s 5 are each amended
8 to read as follows:

9 (1) Any person, including any corporation, that solicits or
10 receives any remuneration (including any kickback, bribe, or rebate)
11 directly or indirectly, overtly or covertly, in cash or in kind

12 (a) in return for referring an individual to a person for the
13 furnishing or arranging for the furnishing of any item or service for
14 which payment may be made in whole or in part under this chapter, or

15 (b) in return for purchasing, leasing, ordering, or arranging for
16 or recommending purchasing, leasing, or ordering any goods, facility,
17 service, or item for which payment may be made in whole or in part
18 under this chapter,

19 shall be guilty of a class C felony(~~(:—PROVIDED, That)~~); however, the
20 fine, if imposed, shall not be in an amount more than twenty-five
21 thousand dollars, except as authorized by RCW 9A.20.030.

22 (2) Any person, including any corporation, that offers or pays any
23 remuneration (including any kickback, bribe, or rebate) directly or
24 indirectly, overtly or covertly, in cash or in kind to any person to
25 induce such person

26 (a) to refer an individual to a person for the furnishing or
27 arranging for the furnishing of any item or service for which payment
28 may be made, in whole or in part, under this chapter, or

29 (b) to purchase, lease, order, or arrange for or recommend
30 purchasing, leasing, or ordering any goods, facility, service, or item
31 for which payment may be made in whole or in part under this chapter,
32 shall be guilty of a class C felony(~~(:—PROVIDED, That)~~); however, the
33 fine, if imposed, shall not be in an amount more than twenty-five
34 thousand dollars, except as authorized by RCW 9A.20.030.

35 (3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are
36 prohibited from self-referring any client eligible under this chapter

1 for the following designated health services to a facility in which the
2 physician or an immediate family member has a financial relationship:

3 (i) Clinical laboratory services;

4 (ii) Physical therapy services;

5 (iii) Occupational therapy services;

6 (iv) Radiology including magnetic resonance imaging, computerized
7 axial tomography, and ultrasound services;

8 (v) Durable medical equipment and supplies;

9 (vi) Parenteral and enteral nutrients equipment and supplies;

10 (vii) Prosthetics, orthotics, and prosthetic devices;

11 (viii) Home health services;

12 (ix) Outpatient prescription drugs;

13 (x) Inpatient and outpatient hospital services;

14 (xi) Radiation therapy services and supplies.

15 (b) For purposes of this subsection, "financial relationship" means
16 the relationship between a physician and an entity that includes
17 either:

18 (i) An ownership or investment interest; or

19 (ii) A compensation arrangement.

20 For purposes of this subsection, "compensation arrangement" means
21 an arrangement involving remuneration between a physician, or an
22 immediate family member of a physician, and an entity.

23 (c) The department is authorized to adopt by rule amendments to 42
24 U.S.C. 1395 nn enacted after the effective date of this act.

25 (d) This section shall not apply in any case covered by a general
26 exception specified in 42 U.S.C. Sec. 1395 nn.

27 (4) Subsections (1) and (2) of this section shall not apply to

28 (a) a discount or other reduction in price obtained by a provider
29 of services or other entity under this chapter if the reduction in
30 price is properly disclosed and appropriately reflected in the costs
31 claimed or charges made by the provider or entity under this chapter,
32 and

33 (b) any amount paid by an employer to an employee (who has a bona
34 fide employment relationship with such employer) for employment in the
35 provision of covered items or services.

36 ((+4)) (5) Subsections (1) and (2) of this section, if applicable
37 to the conduct involved, shall supersede the criminal provisions of
38 chapter 19.68 RCW, but shall not preclude administrative proceedings
39 authorized by chapter 19.68 RCW."

1 Correct the title accordingly.

--- END ---